Supreme Court U. S.
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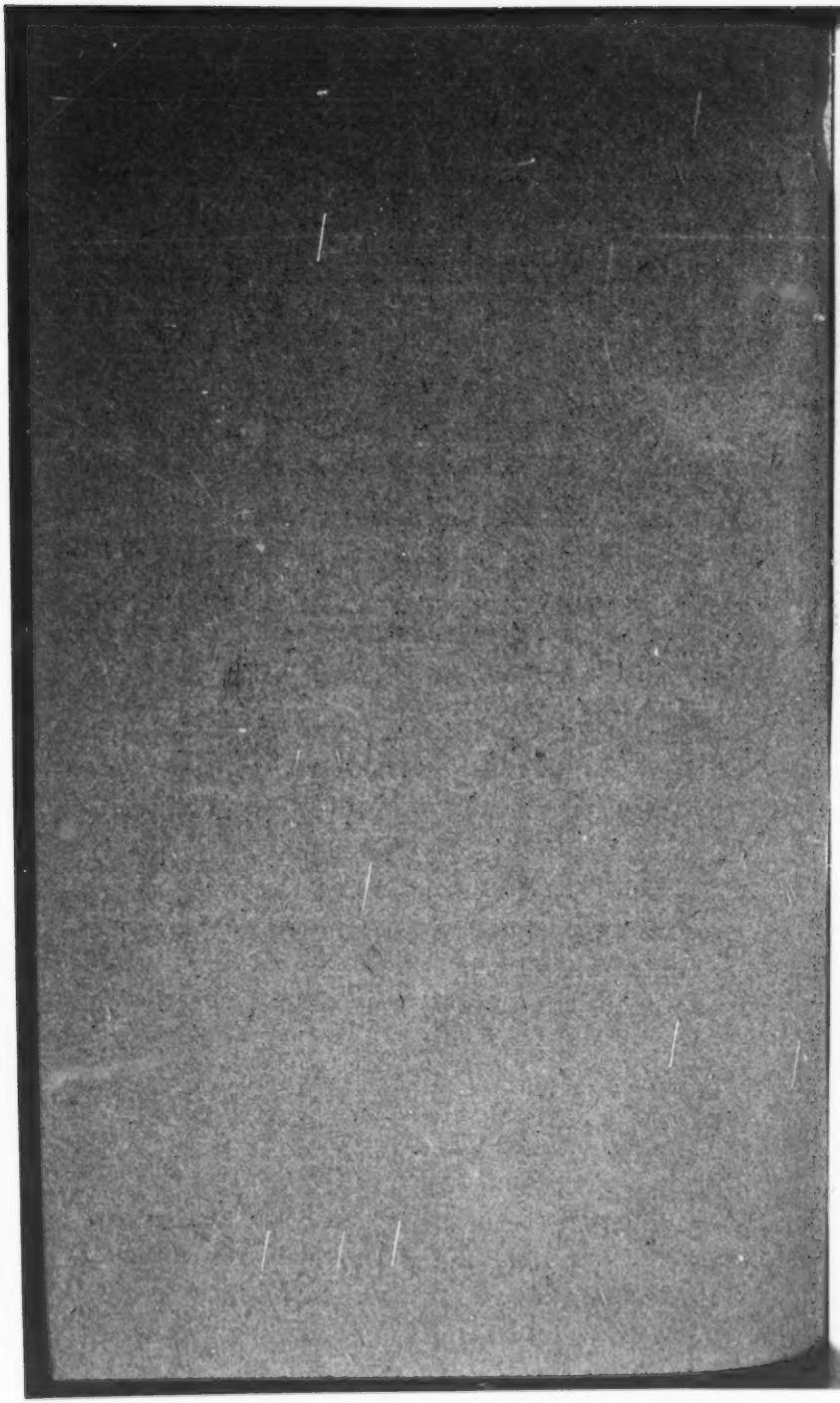
JAMES H. MCKENNEY

In the Supreme Court of the United States.

OCTOBER TERM, 1903.

THE UNITED STATES EX REL. JOHN TURNER, appellant,
v.
WILLIAM WILLIAMS, COMMISSIONER, ETC. } No. 561.

REPLY TO MOTION TO ADVANCE THE CAUSE FOR HEARING AND TO ADMIT THE APPELLANT TO BAIL.



In the Supreme Court of the United States.

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THE UNITED STATES EX REL. JOHN Turner, appellant, *v.* WILLIAM WILLIAMS, COMMISSIONER, ETC. } No. 561.

REPLY TO MOTION TO ADVANCE THE CAUSE FOR HEARING AND TO ADMIT THE APPELLANT TO BAIL.

The Solicitor-General, in behalf of the appellee, respectfully submits the following in reply to the motion made in behalf of appellant—

In view of the number of cases now before this court and the Department I am not willing to join in requesting that the cause be advanced, but submit that question to the court without suggestion.

I respectfully submit that bail should not be granted.

Appellant admits that he is an anarchist. The plain purpose of the act of March 3, 1903, was to protect the people of the United States from the baneful presence of all such individuals by shut-

ting the door of entrance, so far as possible, against them. And if by any means they should procure an entrance, their speedy deportation was provided for.

Congress has in effect declared that the public safety would be put in jeopardy by permitting alien anarchists to go at large within the United States. The courts should not, by admitting such persons to bail, allow a continuation of the very evil intended to be prevented by the exclusion act.

The proposition that appellant be admitted to bail upon condition that he shall go beyond the limits of the United States until this case is determined does not seem to merit serious consideration. I am not aware of any precedent for admitting a prisoner to bail upon condition that he shall go beyond the jurisdiction of the court and remain there pending an investigation of the cause.

In view of the well-considered holdings of this court the propositions of law advanced in behalf of the appellant seem without merit.

The immigration act of March 3, 1903, is not in conflict with the act of February 14, 1903, establishing the Department of Commerce and Labor. The latter act, so far as it affects the various bureaus transferred to the new Department, was intended to take effect July 1, 1903, and it was necessary to have the immigration law, effective in March, enforced by some Department between that date and the 1st of July following.

The decisions of this court in the Japanese immigrant case (189 U. S., 86), and previous cases therein referred to, constitute a complete answer to the contentions now set up in behalf of the appellant that the immigration law of 1903 is in conflict with the Constitution.

> The power of Congress to exclude aliens altogether from the United States, or to prescribe the terms and conditions upon which they may come to this country, and have its declared policy in that regard enforced exclusively through executive officers without judicial intervention, is settled by our previous adjudications. (*Lem Moon Sing* v. *United States*, 158 U. S., 538.)

I RESPECTFULLY ASK THAT THE MOTION TO ADMIT TO BAIL BE DENIED.

HENRY M. HOYT,
Solicitor-General.

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